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7 HARRAH'S OPERATING COMPANY, INC.; HARRAH'S MARKETING SERVICES
CORPORATION; HARRAH'S LAUGHLIN, INC.; HARRAH'S LICENSE COMPANY, LLC;
and HBR REALTY COMPANY, INC.

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

13 JAMES M. KINDER.

14 Plaintiff,

15 | vs.

16 HARRAH'S ENTERTAINMENT, INC.;
17 HARRAH'S OPERATING COMPANY, INC.;
18 HARRAH'S MARKETING SERVICES
CORPORATION; HARRAH'S LICENSE
COMPANY, LLC; HARRAH'S LAUGHLIN,
INC.; HBR REALTY COMPANY, INC. and
19 DOES 1 through 100, inclusive.

20 Defendants.

CASE NO. 07-CV-2132-DMS (AJB)
[Consolidated with 07 CV 2226 DMS (POR)]

Judge: Hon. Dana M. Sabraw
Mag. Judge: Hon. Anthony J. Battaglia

Action Date: October 2, 2007

DEFENDANT HARRAH'S
ENTERTAINMENT, INC.'S RESPONSE TO
OBJECTIONS AND MOTION TO STRIKE
EVIDENCE SUBMITTED IN SUPPORT OF
MOTION TO DECLARE PLAINTIFF A
VEXATIOUS LITIGANT AND FOR AN
ORDER REQUIRING HIM TO POST A
BOND IN THE AMOUNT OF \$75,000

Date: April 25, 2008
Time: 1:30 p.m.
Courtroom: 10

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1 1. **Exhibits 1 and 2:**

2 Exhibit 1 is a true and correct copy of the Web page of the San Diego County Superior
3 Court docket showing KINDER's filings from 2000-2006. Exhibit 2 is a true and correct copy of
4 the Web page of the San Diego County Superior Court docket showing KINDER's filings in 2007.

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6 **Response to Objections:** Plaintiff's objections with respect to judicial notice are
7 misplaced. Exhibit 1 and Exhibit 2 are both true and correct copies of webpage printouts from the
8 San Diego County Superior Court docket, which is a publicly available Website, showing Plaintiff
9 JAMES M. KINDER's multiple filings from 2000 through 2007. The documents are certainly
10 relevant, and a foundation and authentication has been laid in the Declaration of Ronald R. Giusso,
11 accompanying the Motion to Declare Plaintiff a Vexatious Litigant. Accordingly, Plaintiff's
12 objections should be overruled.

13

14 2. **Exhibits 3, 4, 6-14:**

15 Exhibit 3 is a true and correct copy of the Complaint and Order Denying Permission to File
16 New Litigation in the case of *James M. Kinder v. States Recovery Systems, Inc.*, Case No. GIC
17 818823.

18 Exhibit 4 is a true and correct copy of the Complaint and Order Denying Permission to File
19 New Litigation in the case of *James M. Kinder v. Household Automotive Finance Corporation*,
20 Case No. GIC 818812.

21 Exhibit 6 is a true and correct copy of the Complaint and Order Denying Permission to File
22 New Litigation in the case of *James M. Kinder v. Rite Air Corporation*, Case No. GIC 818821.

23 Exhibit 7 is a true and correct copy of the Complaint and Order Denying Permission to File
24 New Litigation in the case of *James M. Kinder v. Mitsubishi Motors Credit of America, Inc.*, Case
25 No. GIC 818822.

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1 Exhibit 8 is a true and correct copy of the Complaint and Order Denying Permission to File
2 New Litigation in the case of *James M. Kinder v. NCO Financial Systems, Inc.*, Case No. GIC
3 818820.

4 Exhibit 9 is a true and correct copy of the Complaint and Order Denying Permission to
5 File New Litigation in the case of *James M. Kinder v. 24 Hour Fitness USA, Inc.*, Case No. GIC
6 818819.

7 Exhibit 10 is a true and correct copy of the Complaint and Order Denying Permission to
8 File New Litigation in the case of *James M. Kinder v. Bay Area Credit Service, Inc.*, Case No.
9 GIC 818818.

10 Exhibit 11 is a true and correct copy of the Complaint and Order Denying Permission to
11 File New Litigation in the case of *James M. Kinder v. Washington Mutual Bank, Washington*
12 *Mutual Finance, and North American Mortgage Company*, Case No. GIC 818816.

13 Exhibit 12 is a true and correct copy of the Complaint and Order Denying Permission to
14 File New Litigation in the case of *James M. Kinder v. Western Collection Recovery, Inc.*, Case No.
15 GIC 818817.

16 Exhibit 13 is a true and correct copy of the Complaint and Order Denying Permission to
17 File New Litigation in the case of *James M. Kinder v. Collectech Systems, Inc.*, Case No. GIC
18 818815.

19 Exhibit 14 is a true and correct copy of the Complaint and Order Denying Permission to
20 File New Litigation in the case of *James M. Kinder v. Triad Financial Corporation*, Case No. GIC
21 818814.

22
23 **Response to Objections:** Plaintiff's objections entirely miss the point. The documents
24 taken from the San Diego County Superior Court's files in the cases referenced in Exhibits 3, 4,
25 and 6-14 are not submitted to the Court in order to prove the truth of the matters asserted in such
26 documents. Rather, the documents were provided to the Court as evidence of prior rulings
27 regarding JAMES M. KINDER in the San Diego County Superior Court. As such, the documents
28 are entirely appropriate for judicial notice. The exhibits have been properly authenticated, and

1 Defendant Harrah's Entertainment, Inc. requests this Court take judicial notice of the exhibits
2 mentioned herein. (See, FRE 201(d).)

3

4 **3. Exhibit 5:**

5 Exhibit 5 is a true and correct copy of the complaint in the case of *James M. Kinder v.*
6 *Corporate Collection Services, Inc.*, Case No. GIC 822762, with notification from the Court
7 requiring a pre-filing order before any KINDER case can be filed.

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9 **Response to Objection:** Plaintiff objects to Exhibit 5 that it is an illegible document with
10 handwriting on it. As such, Plaintiff claims it is hearsay. Plaintiff's counsel must be looking at the
11 wrong document. The document attached as Exhibit 5 to the presently pending motion to deem
12 JAMES M. KINDER a vexatious litigant is a true and correct copy of the complaint in the case of
13 *James M. Kinder v. Corporate Collection Services, Inc.*, Case No. GIC 822762.

14

15 **4. Exhibit 16:**

16 Exhibit 16 is a true and correct copies of Vexatious Litigant Lists for September 2007,
17 October 2007, and January 2008, prepared and maintained by the Administrative Office of the
18 Court of California.

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20 **Response to Objection:** Plaintiff objects to Exhibit 16 as hearsay, irrelevant, lacking in
21 foundation, and lacking authentication. In reality, Exhibit 16 is a list created by the
22 Administrative Office of the Courts of the State of California that identifies all persons who are
23 subject to pre-filing orders as of a certain date. Exhibit 16 includes those persons surrounding the
24 alphabet "K" that were subject to pre-filing orders as of September 28, 2007; October 31, 2007;
25 and through January 31, 2008. While it is understandable that JAMES M. KINDER would wish
26 to confuse the Court and try to hide the fact that he has been a vexatious litigant for at least the
27 past five years in the eyes of the State of California, the document speaks for itself, has been
28 properly authenticated, and is wholly relevant to the issues presently before this Court. Moreover,

1 the Court may take judicial notice of these documents as Court records. (See, FRE 201; *United
2 States v. Warneke*, 199 F.3d 906, 909, fn. 1 (7th Cir. 1999); *Doran v. Eckold*, 409 F.3d 958, 962,
3 fn. 1 (9th Cir. 2005).

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5. **Exhibit 28:**

6 Exhibit 28 is a true and correct copy of an article in SanDiegoReader.com entitled "City
7 Lights" dated January 17, 2008.

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9 **Response to Objection:** The document is a true and correct copy of an article in the San
10 Diego Reader entitled "City Lights" dated January 17, 2008. The document sets forth matters that
11 are generally known to the public regarding KINDER, his conduct in depositions, his vulgarity,
12 and his business of filing lawsuits related to his famous telephone number. The document speaks
13 for itself.

14

15 SHEA STOKES ROBERTS & WAGNER, ALC

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17 Dated: April 18, 2008

By: s/Ronald R. Giusso

18

Maria C. Roberts

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Ronald R. Giusso

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Attorneys for HARRAH'S ENTERTAINMENT,
INC. and *Specially Appearing* Defendants
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